

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

EQUAL EMPLOYMENT)	
OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	Case No. 3:12-cv-01031-WDS-SCW
)	
and PAMELA PERRY)	JURY TRIAL DEMANDED
)	
Plaintiff in Intervention,)	
)	
v.)	
)	
COMPREHENSIVE BEHAVIORAL)	
HEALTH CENTER OF ST. CLAIR)	
COUNTY, INC.,)	
)	
Defendant.)	

DEFENDANT'S MOTION TO ENFORCE SETTLEMENT AGREEMENT

COMES NOW the Defendant, COMPREHENSIVE BEHAVIORAL HEALTH CENTER OF ST. CLAIR COUNTY, INC., by and through its undersigned attorneys, CLAYBORNE, SABO & WAGNER LLP, and for its Motion to Enforce Settlement Agreement, states as follows:

1. On September 26, 2012, Movant was sued by the Equal Employment Opportunity Commission for alleged violations of the ADA.
2. On January 2, 2013, the employee, Pamela Perry, intervened in that action.
3. On August 21, 2013, Defendant's insurance carrier, Great American Insurance, denied coverage for the underlying claim.
4. On October 4, 2013, Defendant filed suit against Great American Insurance Company to declare coverage for the claims in the underlying matter.

5. On June 16, 2014, Defendant hired Ripplinger & Zimmer, LLC to bring suit against John Gilbert and the law firm of Hinshaw & Culbertson for legal malpractice.

6. On July 23, 2014, Ripplinger and Zimmer filed suit against John Gilbert and the law firm of Hinshaw & Culbertson for legal practice in the Twentieth Judicial Circuit of St. Clair County, Illinois.

7. On December 11, 2014, all parties and counsel to all of the above-described suits met in person and by conference call before Magistrate Stephen Williams for a settlement conference.

8. In that settlement conference, all parties to the litigation agreed to participate in a global settlement for all pending claims. As part of the lawsuit filed by Ripplinger & Zimmer LLC, Defendant owed Ripplinger & Zimmer LLC a 40% contingency fee for any monies recovered in the suit filed against John Gilbert and Hinshaw & Culbertson.

9. As part of the settlement which was reached on December 11, 2014, Ripplinger & Zimmer agreed to take a reduced fee which would be paid directly to Ripplinger & Zimmer by Hinshaw & Culbertson.

10. The effectuation of the global settlement was delayed due to Plaintiff Perry's failure to finalize amounts of the settlement to be considered back wages. Defendant Comprehensive Behavioral Mental Health Center of St. Clair County, Inc. had no role in the delay.

11. Eventually, all settlement checks were exchanged, and Ripplinger & Zimmer, LLC received their funds directly from Hinshaw & Culbertson. Defendant is unaware of what date that was accomplished.

12. On August 3, 2015, Ripplinger & Zimmer LLC commenced suit against Comprehensive Behavioral Mental Health Center of St. Clair County, Inc. in St. Clair County,

Illinois in Cause Number 15-AR-705 for collection of the remainder of the fees allegedly owed under the 40% contingency contract in the amount of \$14,622.10.

13. Ripplinger & Zimmer LLC contend that settlement was not effectuated by January 5, 2015 and therefore their portion of the global settlement is not valid. The Transcript of the settlement conference is attached as Exhibit A.

14. On Page 6 of Exhibit A, the Court sets forth the terms of the settlement and the amount which is going to be paid directly to Mr. Ripplinger for the settling of the underlying state malpractice claim.

15. On Page 11 of Exhibit A, the Court asked Mr. Ripplinger directly whether or not the Court's statements regarding the settlement were accurate and Mr. Ripplinger replied "yes sir." The Court made no reference to January 5, 2015.

16. On Page 12 of Exhibit A, Steve Puiszis indicates that Hinshaw & Culbertson was going to be paying the settlement by January 5, 2015.

17. Because of situations beyond Comprehensive Behavioral Health Center of St. Clair County, Inc.'s control, checks from Hinshaw & Culbertson were apparently not delivered to Mr. Ripplinger until after January 5, 2015.

18. However, Mr. Ripplinger did accept the monies from Hinshaw & Culbertson when they were delivered as satisfaction of the settlement agreement.

19. Now, some months later, Mr. Ripplinger wishes to collect those fees from Comprehensive Behavioral Health Center of St. Clair County, Inc. which would not be in compliance with the settlement agreement.

20. Defendant Comprehensive Behavioral Health Center of St. Clair County, Inc. should not be penalized because of another party's failure to deliver the check by a date which may or may not have been agreed to by all.

21. All monies described in Exhibit A were distributed according to the terms set forth in Exhibit A and no one objected to the receipt.

WHEREFORE, the Movant, Comprehensive Behavioral Health Center of St. Clair County, Inc., prays this Court enter an Order declaring that the terms of settlement as set forth by the Court on December 11, 2014 have been adhered to, and that Ripplinger & Zimmer LLC be bound by the terms of that agreement and no further monies be owed.

Respectfully submitted,

By: /s/ Michael L. Wagner
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CERTIFICATE OF SERVICE

The undersigned attorney certifies that a copy of the foregoing document(s) was served upon the following persons and attorneys by enclosing the same in an envelope addressed to such persons with delivery fees fully prepaid and by depositing same in the U.S. Mail in Belleville, IL on this 28th day of August, 2015, addressed to the following:

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